

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 28**

**DTG OPERATIONS, INC.
d/b/a DOLLAR RENT A CAR
and THRIFTY CAR RENTAL¹**

Employer

and

Case 28-RC-6704

**IRONWORKERS LOCAL 509, affiliated
with the INTERNATIONAL ASSOCIATION
OF BRIDGE, STRUCTURAL, ORNAMENTAL
AND REINFORCING IRON WORKERS²**

Petitioner

DECISION AND DIRECTION OF ELECTION

Ironworkers, Local 509, an affiliate of International Association of Bridge, Structural, Ornamental and Reinforcing Iron Workers (Petitioner), seeks an election in a unit comprised of employees who work at its car rental facility located on Swenson Street in Las Vegas, Nevada, as well as several hotels on the Las Vegas Strip. The unit sought by the Petitioner consists of approximately 47 employees, including 10 service agents, 20 rental sales agents, 5 checkpoint representatives, 6 courtesy bus drivers, 5 shuttlers, and a dispatcher.

Although the parties agree that any appropriate unit should include employees within these classifications, the Employer contends that the only appropriate unit must also include the approximately 100 employees it employs at McCarran International Airport (the Airport location), including 45 rental sales agents, a lead rental sales agent, 16 checkpoint representatives, 13 greeters, 6 mechanics, 4 assistant mechanics, 2 turn-back prep agents, and a building maintenance technician. The Employer further contends that an appropriate unit must also include its lead staff assistants, one of whom is employed at the Swenson Street location and four of whom are employed at the Airport location, and seven staff assistants. The Petitioner has indicated that, if it is determined that a city-wide unit is appropriate, such a unit should exclude staff assistants and lead staff assistants, because employees in these classifications are administrative or clerical employees, and mechanics, assistant mechanics, building maintenance technicians, and turn-back prep agents, because employees in these classifications constitute a separate craft and/or maintenance unit.

¹ The name of the Employer appears as corrected at the hearing.

² The name of the Petitioner appears as corrected at the hearing.

Based upon the reasons more fully set forth below, I find that the unit sought by the Petitioner limited to the Employer's Swenson Street and hotel employees is not an appropriate unit for collective bargaining. I find instead that the appropriate unit should consist of the service agents, rental sales agents, check-point representatives, dispatchers, courtesy bus drivers, shuttlers, greeters, lead staff assistants, staff assistants, and turn-back prep agents employed by the Employer in its Las Vegas, Nevada facilities. In agreement with the Petitioner, I have also determined that the Employer's mechanics, assistant mechanics, and building maintenance technicians should be excluded from the unit because they lack a sufficient community of interest with the remaining employees.

DECISION

Under Section 3(b) of the Act, I have the authority to hear and decide this matter on behalf of the National Labor Relations Board (the Board). Upon the entire record in this proceeding, I find:

1. **Hearing and Procedures:** The Hearing Officer's rulings made at the hearing are free from prejudicial error and are affirmed.

2. **Jurisdiction:** The parties stipulated, the record establishes, and I find, that the Employer, an Oklahoma corporation with facilities located throughout the State of Nevada, is engaged in the business of retail and nonretail leasing and servicing of automobiles. During the 12-month period ending February 12, 2010, the Employer, in conducting the business operations as described above, derived gross revenues valued in excess of \$500,000 and purchased and received goods and materials at its Las Vegas, Nevada facilities valued in excess of \$50,000 directly from points located outside the State of Nevada. The Employer is engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act, and, therefore, the Board's asserting jurisdiction in this matter will accomplish the purposes of the Act.

3. **Labor Organization Status:** The parties stipulated, and I find, that the Petitioner is a labor organization within the meaning of Section 2(5) of the Act and claims to represent certain employees of the Employer.

4. **Statutory Question:** A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

5. **Unit Finding:** This case presents the issue of whether the Swenson Street and hotel employees petitioned for by the Petitioner constitute an appropriate unit, or whether they must be included in a unit including the Employer's Airport location employees. An additional issue presented is whether the Employer's staff assistants, mechanics, assistant mechanics, building maintenance technicians, and turn-back prep agents should be included in any unit found appropriate. As discussed more fully below, I conclude that the petitioned-for employees do not constitute an appropriate unit, but that they may only be included in an appropriate unit along with the employees working throughout the Employer's Las Vegas

operations, excluding its mechanics, assistant mechanics, and building maintenance technicians. In this decision, I shall discuss the procedural background in this matter; the record facts concerning the Employer's operations; and a description of the positions in dispute and their respective working conditions. I will then present the case law and the reasoning that support my conclusions.

A. Procedural and Representation Background

On February 12, 2010, the Petitioner filed a petition in this case seeking to represent all of the Employer's full-time service agents, rental agents, dispatchers, and check point employees at the Employer's Swenson Street location, but excluding all other employees, including management and staff assistants.

At hearing and in its post-hearing brief, the Petitioner clarified that it also seeks to represent the courtesy bus drivers and shuttlers working at the Swenson Street location, as well as employees working at 11 hotels on the Las Vegas Strip. The Petitioner has also indicated that it would proceed to an election in a unit consisting of the Employer's full-time service agents, rental agents, dispatchers, check point employees, courtesy bus drivers, and shuttlers in a city-wide unit, but excluding staff assistants, lead staff assistants, mechanics, assistant mechanics, building maintenance technicians, and turn-back prep agents.

B. The Employer's Las Vegas Operations

1. Organizational Structure

The Employer, which is based in Tulsa, Oklahoma, operates a national chain of car rental facilities. In Las Vegas, Nevada, the Employer operates under the brand names, "Dollar" and "Thrifty." The Employer utilizes its inventory (fleet), employees and supervisors interchangeably in renting its cars under these two brands. The Employer employs individuals at the following locations in Las Vegas: (a) McCarran International Airport; (b) a facility at Swenson Street (located approximately three to five miles from the Airport location); and (c) 11 hotels on the Las Vegas Strip. The employees posted at hotels report daily to the Swenson Street location, from which they are given their daily assignments.

The Employer's Airport location is a full-service rental facility employing rental sales agents, mechanics, check point representatives, greeters, lead staff assistants, staff assistants, turn-back prep agents, a lead rental sales agent, and a building maintenance technician. At the Swenson Street location, the Employer employs service agents, rental sales agents, check point representatives, courtesy bus drivers, shuttlers, a dispatcher, and a lead staff assistant. The Swenson Street location operates 24 hours a day, seven days a week, but is only open for rental activity Monday through Sunday from 8:00 a.m. until 5:00 p.m. Finally, the Employer also posts employees from its Swenson Street location at 11 rental counters located in hotels on the Las Vegas Strip. On a daily basis, the Employer allocates its single fleet of rental cars among its various Las Vegas locations.

2. Supervisory Structure

Clayton Hopkins is the General Manager for the Employer's Las Vegas operation and has held this position since August 2007. His office is located at the Airport location. Reporting to Hopkins are Jill Syler, the Employer's Las Vegas Sales Manager, and Cora Picard, the Employer's Operations Manager, who is responsible for marketing. Syler and Picard's responsibilities cover the entire Las Vegas operation, and they have no direct reports.

Also reporting to Hopkins is City Operations Manager Misty Guillermo, who is responsible for overseeing the entire Las Vegas operation for fleet, daily operations, and human resources coordination. Reporting to Guillermo are nine Operations Managers and Senior Operations Manager Mark Pfiefer. The record evidence indicates that the majority of the Operations Managers are assigned shifts during which they supervise employees throughout the entire Las Vegas operation, including the hotels, the Swenson Street location, and the Airport location.

There are certain managers, however, who supervise a dedicated group, including City Maintenance Manager Ron Klymyshyn, who supervises the mechanics, assistant mechanics, and the building maintenance technician, and Fleet Controls Manager Misuk Kim, who supervises five staff assistants and the two turn-back prep agents. In addition, one operations manager, Connie Hardy, is assigned to work at the Swenson Street location Monday through Friday. On weekends, another operations manager, Luis Silva, serves as the manager for the location. When Hardy and Silva are unavailable, other operations managers substitute for them at the Swenson Street location. This occurs up to 15 times per week.

Except for Hardy, Respondent's entire management team is officed at the Airport location. Hardy's office is located at the Swenson Street location.

3. Labor Relations/Terms and Conditions of Employment

The Employer's labor relations policies, including those covering discipline, compensation, and benefits are largely set by its human resources personnel in Tulsa, Oklahoma, and are disseminated in a company-wide employee handbook. The application and hiring process for all employees in the Las Vegas operation is homogenous. Successful applicants for any position must complete an application form, pass a background check and drug test, have a valid driver's license, and maintain permanent residence. In addition, however, mechanics are required to be Automotive Standard of Excellence (ASE) certified, and the Employer prefers that its assistant mechanics also hold such a certification. Training for all of the Employer's Las Vegas employees is conducted at a centralized location at the Airport location. All employees, regardless of their geographical duty post, undergo identical new-hire training in mixed classes.

Payroll for the entire Las Vegas operation is centralized. All employees receive identical paychecks, indicating "DTG Operations, Inc." as the employer. All employees in like classifications wear the same uniforms, regardless of where they are posted. All

employees are evaluated based on a similar performance appraisal and planning form, and are subject to the same rules regarding scheduling leave.

While many of the Employer's policies are generated at its Tulsa headquarters, these policies are actually effectuated, with respect to the Las Vegas employees, by Guillermo and the operations managers. Employee personnel files are maintained at the Employer's Airport location, and the payroll system is administered locally. The operation managers jointly coordinate staffing levels at the various hotel locations, as well as at the Swenson Street location, based on rental demand. Likewise, operations managers are responsible for granting leave requests, identifying work-rule infractions, and conducting performance appraisals. Operations managers work with Guillermo to determine appropriate disciplinary action, and General Manager Hopkins is involved with any extraordinary or sensitive disciplinary situations. Before any employee is terminated, the Employer's Human Resources Department in Tulsa is consulted.

4. Duties of Employees

As set forth in more detail below, the nature of the Employer's car rental operation necessitates substantial direct contact between employees in various job classifications. To remain responsive to customer demand, as well as guarantee the integrity of the Employer's fleet, employees in various positions engage in a high degree of coordination. In addition, to accommodate peaks in demand affecting certain aspects of the operation, employees (with the exception of mechanics and assistant mechanics) are cross-trained for various positions and expected to substitute in these positions as needed. What follows is a summary of job duties of positions in the Las Vegas operations:

a. Rental Sales Agents and Checkpoint Representatives

Of the approximately 150 employees in the Employer's Las Vegas operations, 65 are rental sales agents, of whom 20 work at the Swenson Street location (and hotels) and 45 are assigned at the Airport location. These employees work at the Employer's rental counters and are responsible for greeting customers, processing rentals, selling customers optional services, resolving overdue rentals, and responding to customer questions and complaints. Rental sales agents are paid between \$8 to \$12 per hour. The Employer also employs 21 checkpoint representatives, of whom 16 work at the Airport location and 5 work at the Swenson Street location. Checkpoint representatives are responsible for checking customers' rental agreements and vehicle tags to verify the authorized movement of rental vehicles. They are also responsible for assisting customers with directions, examining vehicles for damage, and maintaining an inventory of vehicles. The record does not indicate the pay rate for checkpoint representatives. The parties stipulated that the position of rental sales agent and checkpoint representative should be included in any appropriate unit.

b. Courtesy Bus Drivers and Shuttlers

Five courtesy bus drivers and two shuttlers are based at the Swenson Street location. The courtesy bus drivers operate shuttle vans to transport customers to and from the Airport location, the Swenson Street location, and the hotels. They also occasionally perform preventative maintenance checks on the shuttle vans. The record is silent as to the courtesy drivers' rate of pay. The shuttlers are responsible for moving the Employer's fleet of rental cars among the various pick-up and drop-off locations, as dictated by customer demand. Shuttlers are the lowest paid employees in the operation, earning between \$8 to \$10 per hour. The parties stipulated that the positions of courtesy bus drivers and shuttlers should be included in any appropriate unit.

c. Service Agents

The Employer employs ten service agents at its Swenson Street location. Service agents clean and service vehicles for customer use, inspect vehicles for adherence to the Employer's quality standards, transport vehicles from the facility's servicing area to the customer pick-up area, and maintain gas logs on vehicles. The record does not indicate service agents' pay rate.

d. Mechanics, Assistant Mechanics, and Building Maintenance Technician

The Petitioner does not seek to represent the Employer's six mechanics, four assistant mechanics, or building maintenance technician. As noted, unlike the majority of the Employer's employees, these employees report to a dedicated supervisor, City Maintenance Manager Ron Klymyshyn.

Mechanics work at the Airport location and perform repairs on rental vehicles in the Employer's fleet. Their duties range from performing regular repair and inspections to heavier repair work. Mechanics also perform pre-delivery safety inspections required by the State of Nevada. Assistant mechanics do not actually "assist" the mechanics, but rather perform lighter maintenance tasks such as oil changes and tire rotations. Mechanics and assistant mechanics have qualifications and training different from other employees, and use specialized tools and equipment to perform their job duties. Mechanics are required to be ASE certified, and assistant mechanics are preferred to hold this certification. According to the Employer's job description, mechanics are required to have three years experience in H/VAC, electrical repair, or general mechanics, and assistant mechanics are required to have vocational training or the equivalent, and at least one year of automotive repair or related experience. The mechanics are the Employer's highest paid employees, earning up to \$20 per hour. Unlike the other positions discussed herein, the mechanic and assistant mechanics do not cross train in other positions. Similarly, mechanic and assistant mechanic work is not offered to other employees as a means to earn overtime.

The building maintenance technician is responsible for light maintenance and custodial work. This employee works primarily out of the Airport location, but also travels to the Swenson Street location and the hotels to perform repairs on the Employer's property and fixtures. The Employer's job description indicates that this position is responsible for

structural and electrical repair work, as well as preventative maintenance on items such as vacuums, car wash equipment, and electrical systems. The building maintenance technician is required to have one to three years experience and to hold a certification. The record is silent as to the building maintenance technicians wage rates.

e. Staff Assistants and Turn-back prep agents

The Petitioner does not seek to represent the Employer's staff assistants or turn-back prep agents. However, the record reflects that the staff assistants are located mainly at the Airport location (only 1 of 13 is stationed at the Swenson Street location). The record indicates that five of the staff assistants are supervised exclusively by Fleet Controls Manager Misuk Kim. The staff assistants coordinate various aspects of the Employer's car rental operation, including the transfer of customers between their rental cars, hotels, and the Airport. This involves regularly interacting with the courtesy bus drivers and serving as a form of "dispatcher." Staff assistants may also be expected to assist in the preparation of vehicles for rental by placing necessary stickers and plates on vehicles. They also prepare rental contracts and relay information between other employees, such as rental sales agents, mechanics, and shuttlers. Finally, they are responsible for preparing inventory reconciliation reports for the Employer's rental fleet. Lead staff assistants perform additional functions, including responding to inquiries from customers. They are also responsible for reconciling missing assets, which requires regular interaction with the rental sales agents. Staff assistants lack the authority to hire, fire, discipline, or assign work to other employees.

Turn-back prep agents are based at the Airport location, but frequently travel to the Swenson Street location to carry out their jobs. These employees have two main responsibilities. First, they are responsible for the "in-fleeting" of new vehicles, which involves inspecting vehicles, attaching appropriate stickers, and installing car accessories such as floor mats, roof racks, and antennae. Second, these agents are responsible for coordinating the Employer's return of fleet vehicles to the general sales market or to the manufacturer. The record indicates that turn-back prep agents' work puts them in contact with numerous other employees involved in the preparation of fleet vehicles prior to their rental or return, including service agents, who are responsible for actually cleaning the vehicles and washing their exteriors, and shuttlers, who detail the vehicles to ensure that they are clean. Once these operations are complete, the turn-back prep agents are responsible for inspecting the vehicles, coordinating any outside inspections, and arranging for any necessary repairs.

The turn-back prep agents' work involves using the Employer's fleet maintenance software (also used by the staff assistants) to determine which vehicles are eligible for turn-back and account for vehicles once they have been "grounded" for that purpose. Turn-back prep agents are required to submit a daily report of vehicles that have been sold or returned. They are also responsible for accounting for any vehicle that has not been rented for more than seven days. The Employer's checkpoint representatives, who are responsible for checking rental agreements and vehicle license plates to ensure that customers leave with the proper vehicle, sometimes serve as turn-back prep agents. The record does not indicate the pay rates for either the staff assistants or the turn-back prep agents.

5. Functional Integration

The Employer's use of a single rental fleet requires ongoing coordination and contact between employees at different locations. Customers may rent vehicles from any one of the Las Vegas locations, and may return them to any location. Shuttlers, who are dispatched from both the Swenson Street and Airport locations, transport vehicles between the locations in coordination with the staff assistants, who account for each vehicle's whereabouts. Through the dispatcher and staff assistants, employees at all locations coordinate rentals, inventory, the Employer's lost-and-found operation, and various customer requests. The staff assistants are also frequently in contact with the courtesy bus drivers, who transport the Employer's customers between each of the locations, including the hotels. Rental sales agents at all locations work with staff assistants to ensure that the Employer's vehicles are accounted for at all times.

There is evidence of both temporary and permanent transfer of employees between the Airport and Swenson Street locations. Between June 2009 and January 2010, 25 Swenson Street-based rental sales agents were temporarily transferred to work at the Airport location and 30 Airport-based rental sales agents to work at the Swenson Street location. In addition, there is evidence of interchange between various job positions. As noted, with the exception of the mechanic and assistant mechanic positions, employees are cross-trained for positions throughout the operation and may be assigned to perform work in different job classifications. Overtime is offered to employees in various positions for which they have been cross-trained. On a quarterly basis, employees are allowed to bid for positions at any location. On average, at least three employees permanently transfer between the Swenson Street and Airport locations each quarter.

D. Legal Analysis and Determination

Section 9(b) of the Act provides that "[t]he Board shall decide in each case whether, in order to assure to employees the fullest freedom in exercising the rights guaranteed by this Act, the unit appropriate for the purposes of collective bargaining shall be the employer unit, craft unit, plant unit or subdivision thereof." In this regard, the cornerstone of the Board's policies on appropriateness of bargaining units is the "community of interest" doctrine, which operates "to group together only employees who have substantial mutual interests in wages, hours, and other conditions of employment." 15 NLRB Ann. Rep. 39 (1950). "Such a mutuality of interest serves to assure the coherence among employees necessary for efficient collective bargaining and at the same time to prevent a functionally distinct minority group from being submerged in an overly large unit." *Allied Chemical & Alkali Workers v. Pittsburgh Plate Glass Co.*, 404 U.S. 157, 172-73 (1971).

The degree to which employees share a community of interest is measured by a number of factors, including: similarity in the method of payment of wages; hours of work; employment benefits; nature of supervision; difference in training and skills; interchange or contact with other employees; functional integration; and the extent to which they have historically been a part of a distinct bargaining unit. *Kalamazoo Paper Box Corp.*, 136 NLRB 134 (1962). Furthermore, it is well established that, in deciding the appropriate unit, the

Board first considers the union's petition and whether that unit is appropriate. *P.J. Dick Contracting*, 290 NLRB 150, 151 (1988). The Board's declared policy is to consider only whether the unit requested is an appropriate one, even though it may not be the optimum or most appropriate unit for collective bargaining. *Overnite Transportation Co.*, 322 NLRB 723 (1996).

1. Any Appropriate Unit Found Should Include the Airport Location Employees.

The Board has long held that a single-facility unit is presumptively appropriate unless it has been so effectively merged into a more comprehensive unit, or is so functionally integrated, that it has lost its separate identity. *R & D Trucking*, 327 NLRB 531 (1999); *J & L Plate, Inc.*, 310 NLRB 429 (1993). The party opposing the single-facility unit bears the burden of rebutting the petitioned-for single unit's presumptive appropriateness. *Jerry's Chevrolet, Cadillac*, 344 NLRB 689 (2005). To determine whether the single-facility presumption has been rebutted, the Board looks at such factors as the similarity of employee skills, functions and training, the distance between the facilities, the functional coordination in operations of the facilities, common supervision, centralized control of operations and labor, contact between employees at different facilities, employee interchange (particularly temporary transfers) between facilities, common wages, benefits, and terms and conditions of employment, and bargaining history, if any. See *Waste Management Northwest*, 331 NLRB 309, 309 (2000); *New Britain Transportation Co.*, 330 NLRB 397, 397 (1999).

The Employer contends that the petitioned-for employees working exclusively out of the Employer's Swenson Street location (including those posted at the hotels, some of which are located further from the Swenson Street locations than the Airport location) do not constitute an appropriate bargaining unit. In this regard, the Employer contends that the operations at the Swenson Street and Airport locations are functionally integrated and that the employees in the petitioned-for unit have no separate and distinct identity. In support of this contention, the Employer refers to the functional integration and interchange of employees, uniform working conditions, centralized control of labor relations, and geographic proximity of the facilities in its Las Vegas operation.

In *Budget Rent a Car Systems, Inc.*, 337 NLRB 884 (2002), the Board considered a situation very similar to that presented here. In that case, the employer, a national car rental agency, operated five rental locations in the Detroit area. The petitioner sought to represent two single units, each encompassing employees of one of the five locations. The Board held in that case that the appropriate bargaining unit could not exclude the remaining three locations. Among the factors the Board noted as justifying a city-wide unit was the absence of a dedicated fleet of rental cars (i.e., inventory) for each of the petitioned units, which "result[ed] in a substantial degree of coordination and contact between unit employees from all five stores." *Id.* at 885. In addition, the Board noted that the five locations were managed jointly by three managers and a single district manager who oversaw operations at all five locations; the terms and conditions of employment, including wages, benefits, work rules, and other policies were all standardized among the locations; and both payroll and training were

administered at a centralized location. In addition, it was noted that there was some evidence of both temporary and permanent transfers of employees between the locations.

In another case in the rental car industry, *Alamo Rent-A-Car*, 330 NLRB 897 (2000), the employer operated four locations in the San Francisco area, including an airport location, a maintenance location, and two additional downtown rental facilities. The petitioner sought to represent, among other employees, service agents, pre-delivery inspection employees/fleet control, and shuttlers employed exclusively at the employer's airport and maintenance locations. The Board held that the appropriate bargaining unit could not exclude the employer's two downtown locations, which were located 10 miles from the airport location, on the rationale that the proposed unit did not conform to any administrative function or grouping of the employer's operation. In particular, the Board found that there was neither substantial employee interchange nor significant functional integration between the two proposed locations that was distinguishable from that which existed among all four of the employer's locations. The Board also found that the employees at the two proposed locations did not share common supervision separate from the employees at the two downtown locations.

Applying the relevant case law to the facts herein, the record establishes that the Swenson Street location is so functionally integrated with the Airport location (located fewer than five miles away) that it lacks a separate identity. The lack of a separate fleet inventory at each location necessitates constant contact between employees at the two locations (and the hotels) to coordinate operations and ensure vehicle availability. While the Swenson Street location has a dedicated manager during a portion of its 24-hour operation, at other times, the facility is managed by an assortment of other operations managers from the Airport location. Control of labor relations is centralized under the authority of Guillermo. In addition, there is evidence of both temporary and permanent transfers among the locations, including a quarterly bid system whereby employees can transfer between the locations. Further, the employees' terms and conditions of employment are standardized between the locations and stem from a central labor relations policy. Swenson Street employees' job functions, required skills, training, work rules, wages, benefits, uniforms, and virtually all other terms and conditions of employment are identical to those of their Airport location counterparts. Lastly, job training and personnel recordkeeping are centralized at a single location.

Under these circumstances, I find that the evidence presented establishes that the Swenson Street location is so effectively merged and functionally integrated with the Airport location, that it lacks any separate identity such that the Employer has rebutted the presumptive appropriateness of the petitioned-for unit. See *Budget Rent a Car Systems, Inc.*, 337 NLRB at 884.

2. Any Appropriate Unit Found Should Not Include Mechanics, Assistant Mechanics, or Building Maintenance Technicians.

The Employer contends the mechanics, assistant mechanics, or building maintenance technicians must be included in any unit found appropriate. For the reasons set forth below, I disagree.

The Board has long held that a “craft unit” consists of a distinct and homogeneous group of skilled journeymen craftsmen who, together with helpers or apprentices, are primarily engaged in the performance of tasks which are not performed by other employees and which require the use of substantial craft skills and specialized tools and equipment. *Burns & Roe Services Corp.*, 313 NLRB 1307, 1308 (1994). In determining whether a petitioned-for craft unit is appropriate, the Board will examine: (1) whether the employees take part in a formal training or apprenticeship program; (2) whether the work is functionally integrated with the work of the excluded employees; (3) whether the duties of the petitioned-for employees overlap with the duties of the excluded employees; (4) whether the employer assigns work according to need rather than on craft or jurisdictional lines; and (5) whether the petitioned-for employees share common interests with other employees. *Id.* However, in non-construction industry cases, the Board has not limited its inquiry solely to these factors. Instead, the Board will “determine the appropriateness of the craft unit sought in light of all factors present in the case.” See *E. I. DuPont de Nemours & Co.*, 162 NLRB 413, 417 (1966).

Accordingly, in addition to the craft unit factors listed above, the Board will also inquire into: (1) differences in the type of work and skills of the employees; (2) functional integration of operations; (3) bargaining history; (4) differences in wages and employment benefits; (5) extent of interchange and contact between the petitioned-for employees and the excluded employees; and (6) extent of common management and supervision. See *Skyline Distributing*, 319 NLRB 270, 277 (1995).

Based on the record evidence, I find that the mechanics, assistant mechanics, and building maintenance technician are not functionally integrated with the Employer’s remaining workforce. Moreover, I conclude that these employees constitute a homogenous group of craft employees that share a community of interest sufficiently separate and distinct from other employees so as to constitute a separate appropriate unit. See *Burns & Roe Services Corp.*, 313 NLRB at 1308. In support of this conclusion, I rely on the fact that the mechanics, assistant mechanics, and building maintenance technician are separately supervised, are required to possess some form of mechanical certification or experience, and only perform mechanical work which involves the bare minimum of interaction with other employees. There is no evidence of interchange between these positions and any other position, and the record indicates that mechanics are paid significantly more than other employees. I find that these employees do not share a sufficient community of interest with other employees to warrant their inclusion in the bargaining unit found appropriate herein.

3. Any Appropriate Unit Found Should Include Staff Assistants and Turn-back prep agents.

The Employer also contends that any unit must include staff assistants³ and turn-back prep agents, because such employees enjoy a community of interest with the Employer's remaining employees. For the reasons set forth below, I agree.

With respect to the staff assistants and lead staff assistants, I conclude that their duties are equivalent to those of "plant clerical" employees. Employees performing service-related duties consistent with the "plant clerical" concept are includible in a unit of service and maintenance employees with whom they interact. *Extendicare Health Services, Inc.*, 347 NLRB 544, 547 (2006). The standard for identifying "plant clericals," as distinct from "office clerical" employees, is "whether the employees' principal functions and duties relate to the production process, as distinguished from general office operations." *Id.* Typical plant clerical duties support the employer's production process, such as maintenance of inventories and ordering supplies, as opposed to the employer's general office operations. *Kroger Co.*, 341 NLRB 202 (2004); *Caesars Tahoe*, 337 NLRB 1096 (2002). A key element in determining whether a community of interest exists is whether the claimed plant clericals perform functions closely allied to the employer's daily operations. See *Fisher Controls Co.*, 192 NLRB 514 (1971). Thus, "the fact that clerical employees exercise some secretarial skills is no obstacle to finding them to be plant clericals," if other factors link them to the employer's production operations and the employees working therein. *Caesars Tahoe*, 337 NLRB at 1099.

Here, the staff assistants' work is integral to the Employer's car rental operations, insofar as they are responsible for ensuring that an adequate supply of properly-equipped cars is available for customers at each location, that customer requests and complaints are resolved, and that the fleet is properly accounted for. See, e.g., *Kroger Co.*, 341 NLRB at 202-03. In performing these duties, the staff assistants have significant direct contact with rental sales agents, courtesy bus drivers, checkpoint representatives, and the dispatcher. Further, the staff assistants are engaged in the preparation of vehicles themselves for rental, which includes preparing rental contracts, and, like rental sales agents, have direct contact with the public. As such, I find a functional integration of their duties with the Employer's production process. See, e.g., *Columbia Textile*, 293 NLRB 1034, 1037-1038 (1984); *Raytee Co.*, 228 NLRB (1977); *Jacob Ash & Co.*, 224 NLRB 74, 75 (1976); *Weyerhaeuser Co.*, 132 NLRB 84, 85 (1961).

As to the turn-back prep agents, it appears that they work throughout the Employer's locations performing work integral to the Employer's car rental operation. The turn-back prep agents' principal duty – to ensure the integrity of the Employer's fleet of rental vehicles

³ At hearing, the Petitioner asserted that the staff assistants were properly considered supervisors and/or managerial employees. However, the record is devoid of any evidence to support this argument, and the Petitioner appears to have abandoned this claim in its post-hearing brief. Based on the record, I find that they do not constitute supervisors and/or managerial employees exempt from the Act. See *NLRB v. Kentucky River Community Care*, 532 U.S. 706, 711-12 (2001) (burden of establishing supervisory status rests on party asserting that status).

– overlaps substantially with the “fleet control”-related duties of the staff assistants and checkpoint representatives. They also, similar to service agents, ensure that new vehicles are ready for rental. In addition, the record contains evidence of interchange between turn-back prep agents and checkpoint representatives. While it is true that the turn-back prep agents have separate, dedicated supervision (as do a number of the staff assistants), this is understandable, given that their duties focus on inventory and fleet control; the fact, therefore, that they report to a single manager accountable for this critical area does not itself indicate that their job duties are not sufficiently integrated with those of the remaining employees.

In addition, I note that both the staff assistants and the turn-back prep agents enjoy a significant community of interest with other employees sought in the petitioned-for unit. Among other things, they are cross-trained to perform the other positions and are expected to substitute as needed; may transfer to the other positions; are subject to the same training requirements, hiring standards, and other terms and conditions of employment; and interact with each other on a regular basis in the course of their duties.

In sum, I conclude that the employees based out of the Employer’s Swenson Street location do not enjoy a community of interest separate and apart from employees at the Airport location. Instead, any appropriate unit must include certain employees employed at the Employer’s Airport location. I base my conclusions on the functional integration between the locations, as well as the common supervision, interchange, centralized labor relations policies, and similarity in skills, job functions, wages, training, work rules, benefits, and all other terms and conditions of employment. Further, I conclude that any appropriate unit should not include mechanics, assistant mechanics, and building maintenance technicians, who constitute a distinct and homogeneous craft unit and enjoy a community of interest separate and apart from the other employees. Finally, I conclude that any appropriate unit must include the Employer’s lead staff assistants, staff assistants, and turn-back prep agents, whose duties are equivalent to those of “plant clerical” employees, and who enjoy a substantial community of interest with the Employer’s rental sales agents, service agents, checkpoint representatives, courtesy bus drivers, shuttlers, greeters, and dispatchers. Therefore, based on the foregoing, I find that the following employees of the Employer constitute a unit appropriate for collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time service agents, rental sales agents, check-point representatives, dispatchers, courtesy bus drivers, shuttlers, greeters, lead staff assistants, staff assistants, and turn-back prep agents employed by the Employer in its Las Vegas, Nevada facilities, but excluding all full-time and regular part-time mechanics, assistant mechanics, building maintenance technicians, office clerical employees, guards, and supervisors as defined in the Act.

There are approximately 136 employees in the unit found appropriate herein.

The unit found appropriate is different from that sought by the Petitioner. Inasmuch as I am directing an election in a unit broader than the unit sought by the Petitioner, if it so desires, it may withdraw its petition, without prejudice, upon written notice to the undersigned

within ten (10) days from the date of this Decision and Direction of Election. If, however, the Petitioner chooses to proceed to an election on the basis of the broader unit found appropriate herein, it must, to the extent it has not already done so, submit to me within 14 days from the date of this Decision and Direction of Election evidence of an adequate showing of interest in the broader unit, or the petition will be dismissed.

DIRECTION OF ELECTION

I direct that an election by secret ballot be conducted in the above unit at a time and place that will be set forth in the notice of election that will issue soon, subject to the Board's Rules and Regulations.⁴ The employees who are eligible to vote are those in the unit are employed during the payroll period ending immediately preceding the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Employees engaged in any economic strike, who have retained their status as strikers and who have not been permanently replaced are also eligible to vote. In addition, in an economic strike which commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements are eligible to vote. Also eligible are those in military services of the United States Government, but only if they appear in person at the polls. Employees in the unit are ineligible to vote if they have quit or been discharged for cause since the designated payroll period; if they engaged in a strike and have been discharged for cause since the strike began and have not been rehired or reinstated before the election date; and, if they have engaged in an economic strike which began more than 12 months before the election date and who have been permanently replaced. All eligible employees shall vote whether or not they desire to be represented for collective-bargaining purposes by:

IRONWORKERS LOCAL 509, affiliated with the INTERNATIONAL ASSOCIATION OF BRIDGE, STRUCTURAL, ORNAMENTAL AND REINFORCING IRON WORKERS

LIST OF VOTERS

In order to ensure that all eligible voters have the opportunity to be informed of the issues before they vote, all parties in the election should have access to a list of voters and

⁴ Employers shall post copies of the Board's official Notice of Election in conspicuous places at least 3 full working days prior to 12:01 a.m. of the day of the election. The notices shall remain posted until the end of the election. The term "working day" shall mean an entire 24-hour period excluding Saturday, Sundays, and holidays. A party shall be estopped from objecting to non-posting of notices if it is responsible for the non-posting. An employer shall be conclusively deemed to have received copies of the election notice for posting unless it notifies the Regional Office at least 5 days prior to the commencement of the election that it has not received copies of the election notice. Section 103.20 (c) of the Board's Rules is interpreted as requiring an employer to notify the Regional Office at least 5 full working days prior to 12:01 a.m. of the day of the election that it has not received copies of the election notice. Failure to post the election notices as required herein shall be grounds for setting aside the election whenever proper and timely objections are filed under the provisions of Section 102.69(a).

their addresses that may be used to communicate with them. *Excelsior Underwear, Inc.*, 156 NLRB 1236 (1966); *NLRB v. Wyman-Gordon Company*, 394 U.S. 759 (1969). Accordingly, I am directing that within **seven (7) days** of the date of this Decision, the Employer file with the undersigned, two (2) copies of election eligibility lists containing the full names and addresses of all eligible voters. The undersigned will make this list available to all parties to the election. *North Macon Health Care Facility*, 315 NLRB 359 (1994). This list may be used by me in determining an adequate showing of interest. I shall make the list available to all parties only after I have determined that an adequate showing of interest covering the employees in the unit found appropriate has been established. In order to be timely filed, the undersigned must receive the list at the National Labor Relations Board Resident Office, 600 Las Vegas Boulevard, S., Suite 400, Las Vegas, Nevada, 89101-6637, on or before **March 30, 2010**. No extension of time to file this list shall be granted except in extraordinary circumstances. The filing of a request for review shall not excuse the requirements to furnish this list.

RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, N.W., Washington, DC 20570-0001. This request must be received by the Board in Washington by April 6, 2010. The request may be filed electronically through E-Gov on the Agency's website, www.nlr.gov,⁵ but may not be filed by facsimile.

Dated at Phoenix, Arizona, this 23rd day of March 2010.

/s/Cornele A. Overstreet
Cornele A. Overstreet, Regional Director
National Labor Relations Board
Region 28
2600 North Central Avenue, Suite 1800
Phoenix, AZ 85004

⁵ To file the request for review electronically, go to www.nlr.gov and select the **E-Gov** tab. Then click on the **E-Filing** link on the menu, and follow the detailed instructions. Guidance for E-filing is contained in the attachment supplied with the Regional Office's initial correspondence on this matter and is also located under "E-Gov" on the Agency's website, www.nlr.gov.